

MEMORANDUM

Agenda Item No. 11(A)(13)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners


DATE: October 6, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution directing the County Attorney's Office to engage in discussions with attorneys for the City of Miami and the State of Florida to clarify the understanding and positions on the scope of the restrictions, conditions, and/or reversionary clauses regarding county-owned property used by the county for the construction and operation of Port of Miami and to report back to committee within 90 days

This item was amended at the 8-27-15 Trade and Tourism Committee. This item differs from the original in that the County Attorneys are directed to engage in negotiations with the attorneys for the City and the State in order to clarify the understanding of the respective parties regarding the restrictions and reverters. In the original item, the Mayor or Mayor's designee was directed to negotiate with the respective parties in order to remove or modify the restrictions and reverters.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



R. A. Cuevas, Jr.
County Attorney

RAC/Imp




MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

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SUBJECT: Agenda Item No. 11(A)(13)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(13)
10-6-15

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY ATTORNEY'S OFFICE TO ENGAGE IN DISCUSSIONS WITH ATTORNEYS FOR THE CITY OF MIAMI AND THE STATE OF FLORIDA TO CLARIFY THE UNDERSTANDING AND POSITIONS ON THE SCOPE OF THE RESTRICTIONS, CONDITIONS, AND/OR REVERSIONARY CLAUSES REGARDING COUNTY-OWNED PROPERTY USED BY THE COUNTY FOR THE CONSTRUCTION AND OPERATION OF PORT OF MIAMI AND TO REPORT BACK TO COMMITTEE WITHIN 90 DAYS

WHEREAS, the State of Florida (the "State") conveyed certain lands to the City of Miami (the "City") in three separate conveyances (the "State Conveyances") located in and along Biscayne Bay in an area east of downtown Miami (the "City Properties"); and

WHEREAS, in 1960, the City subsequently conveyed certain portions of the City Properties to the County (the "City Conveyance") for the purpose of constructing, operating, and/or supporting seaport facilities (the "Port Property"); and

WHEREAS, the County has constructed the seaport facilities now known as the Dante B. Fascell Port of Miami on the Port Property, which is owned and operated by the County through the County's Seaport Department; and

WHEREAS, the State and City conveyance documents purport to contain certain restrictions, conditions, and reversionary interests; and

WHEREAS, the County submits that the restrictions, conditions, and reversionary interests in the State and City conveyance documents may no longer be enforceable, and, if enforceable, the scope of such provisions may lack sufficient precision to avoid uncertainty as to their remaining effect, if any; and

WHEREAS, the County seeks to collaboratively resolve any uncertainty regarding the enforceability and scope of such purported conditions, restrictions, and reversionary interests in order to confirm concurrence among the City, the County, and the State regarding the scope of uses of the Port Property,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recitals are incorporated in this resolution and are approved.

Section 2. The County >>Attorney's Office<<¹ ~~[[Mayor or County Mayor's designee]]~~ is directed to ~~[[initiate and conduct negotiations with]]~~ >>engage in discussions with attorneys ~~for~~<< the State of Florida and the City of Miami,~~[[and any other third party, to remove or to modify any applicable]]~~ >>to clarify the understanding and positions on the scope of<< restrictions, conditions or reversionary interests arising from the State Conveyances, the City Conveyance, and/or any other restriction or condition discovered in the course of such negotiation, to the extent that such restrictions, conditions, or reversionary interests may affect the Port Property.~~[[, in order to collaboratively resolve any uncertainty regarding the remaining effect of such restrictions, conditions, or reversionary interests, if any]]~~

Section 3. The County >>Attorney's Office is directed to report back to the Miami-Dade County Trade and Tourism Committee as to the results of such discussions<< ~~[[Mayor or County Mayor's designee shall provide a status report to this Board regarding such negotiations, and/or proposed agreement(s) for consideration and approval by this Board,]]~~ within 90 days of the effective date of this resolution ~~[[and shall place the completed report and/or proposed agreement on an agenda of the Board pursuant to Ordinance No. 14-65]]~~.

¹ Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of October, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Richard Seavey
Debra Herman